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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,479	02/26/2004	Nobuhiro Ohkubo	204552031400	3112

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EXAMINER
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VAN ROY, TOD THOMAS

ART UNIT	PAPER NUMBER
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2828

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

H/A

<b>Office Action Summary</b>	<b>Application No.</b> 10/786,479	<b>Applicant(s)</b> OHKUBO ET AL.	
	<b>Examiner</b> Tod T. Van Roy <i>r jw</i>	<b>Art Unit</b> 2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 16-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 16-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/26/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of claims 1-9 and 16-22 in the reply filed on 02/21/2006 is acknowledged.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

Figures 8 and 9 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4, 7-8, 20, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Kazumasa et al. (applicant submitted prior art, JP 2002-026450).

With respect to claim 1, Kazumasa discloses a semiconductor laser device which is made from AlGaInP based material (defined in spec as being GaInP or AlGaInP, [0038]) comprising: a first clad layer of a first conductivity type (AlGaInP [0025]), an active layer ([0028]) and a second clad layer of a second conductivity type (AlGaInP [0031]) that are formed over a semiconductor substrate ([0021]), wherein a portion of said active layer in an area near a laser resonator end face has a peak wavelength in photoluminescence (PL) that is smaller than a peak wavelength in PL in a portion of said active layer in a laser resonator inner area ([0019]), and the second clad layer of the second conductivity type located in the area near a laser resonator end face contains As atoms (fig.2 #24, As taught as an impurity source [0045]).

With respect to claim 2, Kazumasa discloses the As atom concentration in the second clad layer of the second conductivity type in the area near a laser resonator end face is higher than an As atom concentration in the second clad layer of the second conductivity type in the laser resonator inner area (fig.2, As implant only on edges, so

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area near resonator would inherently have more As than a central portion of the laser resonator).

With respect to claim 4, Kazumasa discloses the impurity atoms having the second conductivity, contained in the second clad layer of the second conductivity type in the area near a laser resonator end face, are the same as impurity atoms having the second conductivity contained in the second clad layer of the second conductivity type in the laser resonator inner area (second clad layer #24 doping taught to be same throughout entire structure).

With respect to claim 7, Kazumasa discloses the impurity atoms having the second conductivity, contained in the second clad layer of the second conductivity type in the area near a laser resonator end face and the laser resonator inner area have a concentration in a range from not less than  $1E18$  to not more than  $5E18$  ([0032], range taught is from  $1E17$  to  $5E18$ ).

With respect to claim 8, Kazumasa discloses a GaAs contact layer of the second conductivity type formed over the clad layer of the second conductivity type in the area near a laser resonator end face and the laser resonator inner area (fig.3 #29, GaAs [0060]), and a GaInP intermediate layer of the second conductivity type formed between the second clad layer of the second conductivity type and the GaAs contact layer of the second conductivity type in the laser resonator inner area (fig.3 #25, InGaP [0035]).

Claims 20 and 22 are rejected for the same reasons outlined in the rejection to claim 8 above.

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Claims 1-2, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kiyohisa et al. (applicant submitted prior art, JP 09-326526).

With respect to claim 1, Kiyohisa discloses a semiconductor laser device which is made from AlGaInP based material (defined in spec as being GaInP or AlGaInP, [0038]) comprising: a first clad layer of a first conductivity type (fig.1 #3 InGaP [0008]), an active layer (fig.1 #4 [0008]) and a second clad layer of a second conductivity type (fig.1 #5 [0008]) that are formed over a semiconductor substrate (fig.1 #1 [0008]), wherein a portion of said active layer in an area near a laser resonator end face has a peak wavelength in photoluminescence (PL) that is smaller than a peak wavelength in PL in a portion of said active layer in a laser resonator inner area ([0003-5] disordering around edges leads to lower PL wavelength when compared to non-disordered inner laser resonator portion), and the second clad layer of the second conductivity type located in the area near a laser resonator end face contains As atoms (fig.1 #5, As taught as an impurity source [0004]).

With respect to claim 2, Kiyohisa discloses the As atom concentration in the second clad layer of the second conductivity type in the area near a laser resonator end face is higher than an As atom concentration in the second clad layer of the second conductivity type in the laser resonator inner area (fig.1, As implant only on edges, so area near resonator would inherently have more As than a central portion of the laser resonator).

With respect to claim 9, Kiyohisa discloses a GaAs current non-injection layer of the second conductivity type is formed over the second clad layer of the second conductivity type in the area near a laser resonator end face (fig.3 #27).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kazumasa in view of Ueno et al. (EPO 0437243A2).

With respect to claim 3, Kazumasa teaches the semiconductor laser device as outlined in the rejection to claim 1 above, but does not teach the As implant concentration to be between 1E18 and 1E20. Ueno teaches a semiconductor laser device with disordered regions wherein the implant concentration is taught to be 1E17

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or greater (col.4 line 2) and of As (col.6 lines 9-17). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the laser device and As implant of Kazumasa with the As implant concentration level of Ueno in order to allow for a high amount of diffusion and disordering of the active region to sufficiently increase the bandgap energy (Ueno, col.4 lines 1-5).

With respect to claim 16, Kazumasa and Ueno teach the laser device as outlined in the rejection to claim 3 above, and Kazumasa further teaches the impurity atoms having the second conductivity, contained in the second clad layer of the second conductivity type in the area near a laser resonator end face, are the same as impurity atoms having the second conductivity contained in the second clad layer of the second conductivity type in the laser resonator inner area (second clad layer #24 doping taught to be same throughout entire structure).

With respect to claim 19, Kazumasa and Ueno teach the laser device as outlined in the rejection to claim 3 above, and Kazumasa further teaches a GaAs contact layer of the second conductivity type formed over the clad layer of the second conductivity type in the area near a laser resonator end face and the laser resonator inner area (fig.3 #29, GaAs [0060]), and a GaInP intermediate layer of the second conductivity type formed between the second clad layer of the second conductivity type and the GaAs contact layer of the second conductivity type in the laser resonator inner area (fig.3 #25, InGaP [0035]).



Claims 5-6, 17-18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kazumasa in view of Paoli et al. (US 5140605).

With respect to claims 5-6, Kazumasa teaches the semiconductor laser device as outlined in the rejection to claim 4 above, but does not teach the impurity doping atoms to be Beryllium (Be). Paoli teaches a disordered region device which outlines the use of Be as a beneficial impurity type (col.8 lines 7-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the laser device and impurity doping of Kazumasa with the Be impurity type of Paoli in order to have better control over the diffusion depth of the impurity source (Paoli, col.8 lines 7-14).

Claims 17-18 are rejected for the same reasons outlined in the rejection to claim 7 above.

Claim 21 is rejected for the same reasons outlined in the rejection to claim 8 above.

### ***Conclusion***

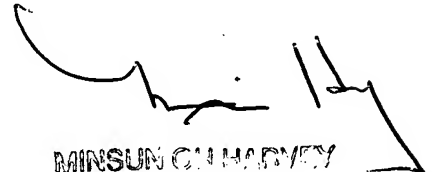
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tod T. Van Roy whose telephone number is (571)272-8447. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minsun Harvey can be reached on (571)272-1835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TVR



MIN SUN C. HARVEY  
PRIMARY EXAMINER